

**UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE  
MULTI-STAKEHOLDER GROUP ADVISORY COMMITTEE MEETING  
MARCH 8-9, 2016**

**SUMMARY OF PROCEEDINGS**

**U.S. DEPARTMENT OF THE INTERIOR  
PREPARED: MARCH 2016**

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**I. Introduction**

The U.S. Department of the Interior (DOI), with Kris Sarri presiding as Designated Federal Official (DFO) and Paul Mussenden presiding as acting DFO, convened the seventeenth meeting of the U.S. Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group Advisory Committee (MSG) on March 8-9, 2016 in Washington, DC. The purpose of the meeting was to make decisions on various recommendations for the 2016 USEITI Report from the Implementation Subcommittee; begin consideration of the future inclusion of additional commodities, namely forestry and other minerals; consider outreach efforts to the public around the 2015 Report and to companies around the 2016 Report; discuss both state and tribal opt-in efforts and updating the contextual narrative portions of the 2016 report around states and tribes.

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## II. Summary of Endorsements, Decisions, Approvals, and Action Items

### A. Endorsements

- No endorsements were made by the MSG at the March 2016 MSG meeting.

## B. Decisions

- The MSG adopted the Implementation Subcommittee's recommendation on project-level reporting. *(see page 8)*
- The MSG adopted the Implementation Subcommittee's recommendation on revenue streams. *(see page 10)*
- The MSG adopted the Implementation Subcommittee's recommendation on reporting template and guidelines. *(see page 11)*
- The MSG adopted the Implementation Subcommittee's recommendation on company materiality. *(see page 11)*
- The MSG adopted the Implementation Subcommittee's recommendation on sampling. *(see page 13)*
- The MSG adopted the Implementation Subcommittee's recommendation on margin of variance. *(see page 15)*
- The MSG adopted the Implementation Subcommittee's recommendation on holding webinars for companies' tax staff. *(see page 16)*
- The MSG adopted the Implementation Subcommittee's recommendation on industry peer discussions. *(see page 17)*
- The MSG adopted the Implementation Subcommittee's recommendation on opt-in to USEITI reporting for out-of-scope companies. *(see page 17)*

## C. Approvals

- The MSG approved the December 2015 MSG meeting summary. *(see page 5)*

## D. Confirmations

- No confirmations were made by the MSG at the March 2016 MSG meeting.

## E. Action Items

### ➤ Co-Chairs:

- Review and distribute meeting summary from March 2016 MSG meeting to MSG members.
- Develop agenda for June 2016 MSG meeting.
- Provide guidance to the Subcommittees around consultation with external stakeholders. *(see page 28)*

### ➤ USEITI Secretariat:

- Explore means to enhance the transparency of the contracting process, including federal best practices around contracting. *(see page 7)*
- Request participation from highest-level DOI officials in outreach efforts to companies. *(see page 23)*
- Send out letters to companies that are tailored to the level of reporting and reconciliation that companies elected to participate in for 2015. *(see page 24)*

### ➤ Implementation Subcommittee:

- Consider the proposal for forming a work group focusing on defining materiality. *(see page 13)*

- Provide updates on progress and key themes raised in industry peer discussions during weekly conference calls. *(see page 17)*
- **Reconciliation and Reporting Work Group**
  - Explore how the EITI International Board’s recently announced “mainstreaming” policy could be applied in the US context. *(see page 8)*
- **Independent Administrator (Deloitte)**
  - Based on analysis conducted during 2016 reporting and reconciliation process, report to the MSG on how much time and money a sampling approach would save on the part of the IA, companies, and the government. *(see page 14)*
  - Provide ongoing updates to the MSG about the number of companies likely to participate in different aspects of reporting and reconciliation. *(see page 17)*
  - Draft a proposal detailing an outreach strategy to companies around voluntary opt-in for out-of-scope companies. *(see page 18)*
  - Coordinate with USEITI Secretariat around communication with companies. *(see page 24)*
  - Present additional information about the content and intended direction of the state and tribal and budget, audit, and assurance visualizations to MSG members and continue working with the Online Report Work Group on an ongoing basis to confirm the direction of the online report. *(see page 27)*
- **USEITI Process Facilitator (Consensus Building Institute)**
  - Create a meeting summary for the March 2016 MSG meeting.

### III. Presentations and Key Discussions

Kris Sarri, Principle Deputy Assistant Secretary, Policy Management and Budget at the U.S. Department of the Interior (DOI) and Designated Federal Officer (DFO) for the USEITI MSG, opened the meeting and welcomed participants. All individuals in attendance introduced themselves. A full attendance list can be found in Section VI – Meeting Participants, page 32.

#### A. Opening Remarks

Ms. Sarri provided opening remarks by stating that USEITI will be working towards initiating validation and ultimately becoming an EITI compliant country in 2016. She recognized the hard work of the subcommittees and work groups between MSG meetings and the importance of coordination and collaboration across sectors, with the IA team, and among the other bureaus and offices within the Department of Interior and other agencies outside DOI.

#### B. USEITI MSG Business

The MSG conducted the following items of business during the course of the MSG meeting.

## 1. Terminology and USEITI December 2015 Meeting Summary

Judy Wilson, USEITI Secretariat, reminded meeting participants that the MSG has agreed to employ three terms to differentiate between different types of actions that the MSG takes:

- “Decisions” will indicate significant actions and agreements by the MSG key to meeting EITI international standards.
- “Approvals” will indicate lower-level decisions by the MSG, such as approving work plans, meeting summaries, process changes or additions, etc.
- “Confirmations” will confirm decisions that the MSG has previously made.

The MSG approved the meeting summary of the December 2015 MSG Meeting with one minor edit. A copy of the final, approved meeting summary is available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/USEITI%20MSG%20-%20Dec%202015%20Mtg%20Summary%20vFINAL%20APPROVED%20%28160323%29.pdf>.

- **Approval: The MSG approved the meeting summary from the December 2015 USEITI MSG meeting.**

## 2. Update on EITI Global Conference, Lima Peru

Two members of the EITI International Secretariat, Jonas Moberg and Sam Bartlett, joined the USEITI MSG meeting via teleconference. They provided a summary of proceedings at the Lima conference, including updates to the EITI Standard.

Mr. Moberg characterized the conversations at the Lima conference as deep and insightful. He noted that the Dominican Republic and Germany are joining EITI and observed that many Latin American countries are moving towards participating in EITI. Mr. Moberg stated that there is a growing recognition that EITI reporting in some countries has become overly dissociated from the functioning of their governments and so there is now a movement towards “mainstreaming” EITI into government’s other functions. He also mentioned the tension between the civil society sector and EITI leadership that arose in the Lima meeting around self-selection of board members and expressed confidence that the dynamic would improve under the leadership of the new Chair of the EITI Board, Fredrik Reinfeldt. He suggested that EITI needs to be “light touch” and not create unnecessary bureaucracy while also becoming more robust.

Mr. Bartlett focused his comments on updates to the EITI Standard that were agreed-to at the Lima conference. Key updates include:

- Option to “mainstream” EITI reporting through existing government systems.
- Provisions on beneficial ownership such that each country will need to agree on a roadmap for disclosing beneficial ownership by January 1, 2017 such that such disclosure is in place by January 1, 2020.
- Changes to validation procedures that include more disaggregated assessments and that encourage and reward continuous improvement.

- Provisions to encourage countries to undertake recommendations articulated in their EITI reports.
- Strengthened data accessibility requirements.
- Refinements to address inconsistencies and ambiguities in the Standard.
- A new requirement that MSGs publish their per diem policies.
- Restructuring of the EITI Standard to better align with the extractive industry value chain.

In response to Mr. Moberg's and Mr. Bartlett's comments, MSG members asked the following questions and made the following comments; *responses from Mr. Moberg and Mr. Bartlett are indicated in italics*:

- A CSO sector member inquired about the role of the civil society organization (CSO) sector at the Lima meeting and about the tension between the CSO sector and EITI leadership.
  - Mr. Bartlett recounted that there were four key meetings in Lima, with the meeting of the outgoing EITI Board looking at a number of key governance issues. He noted that, with more civil society organizations participating in EITI, there was contention about how CSO organizations would be nominated for seats on the EITI Board. Subsequently, some CSO organizations declined to participate in the members meeting. Later, the meeting of the incoming EITI Board addressed and resolved the issues raised in the outgoing board meeting.
  - A CSO sector member added that the outgoing board chair, Claire Short, asserted that she could overrule the self-selection process of the CSO sector. The incoming board chair has a different approach than the outgoing chair and he acknowledged the process "foul" that had taken place. The commenter also noted that the US Government representative to the Board, Mary Warlick, was very supportive of the CSO position.
- CSO sector members inquired about the significance of the changes to the standard around a country making "meaningful progress" towards meeting the requirements articulated in the Standard.
  - Mr. Bartlett explained that the EITI Board will look at a given country's progress towards meeting the requirements of the EITI Standard and will make a judgment call about whether the country has made "satisfactory progress," "meaningful progress," or "limited progress" towards meeting the Standard's requirements. Achieving "compliance" with the EITI Standard will continue to require that a country meet all elements of the Standard. The new framework gives the board greater discretion to decide what consequences should be meted out to countries that are not in compliance. For example, for a country like Afghanistan that has been participating in EITI but that has very weak governance, the board can look at what steps the country is taking to move towards compliance.

- An industry sector member recounted that he attended the Lima conference as well and highlighted the final day of the conference that featured over 25 ministers attesting to the importance of EITI in their countries. He stated that, although the organization is having some growing pains, the underlying work remains robust and important.
- An industry sector member commended the work of the members of the USEITI Secretariat who set up the US booth and represented USEITI. She also noted that John Harrington has been appointed to the EITI International Board as an alternate member.
- A CSO sector member added that the US Co-Chairs met with their counterparts from Iraq who were very interested to learn that the platform for the USEITI online report is open source and can be used by other countries. She also noted that the Iraqi MSG has rules requiring minimum representation and leadership by women.
- Government sector members Greg thanked the USEITI Secretariat as well as Kris Sarri for engaging the USEITI team. They added that the USEITI online report is a strong example of how EITI can improve governance in implementing countries and that other countries are now looking at the US example.

### 3. MSG Terms of Reference

Ms. Wilson walked through a draft version of updated Terms of Reference (TOR) for the USEITI MSG. She remarked that the updated draft is intended to be more forward-looking than the existing TOR, which was drafted and agreed-upon at the inception of the MSG. Ms. Wilson requested that the sectors review the draft updated TOR and be prepared to comment and decide on whether to endorse the document at the June MSG meeting. The draft TOR is available at:

[https://www.doi.gov/sites/doi.gov/files/uploads/Updated%20USEITI%20Terms%20of%20Reference%20compared%203\\_16%201.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/Updated%20USEITI%20Terms%20of%20Reference%20compared%203_16%201.pdf).

A CSO sector member commented that the federal contracting process to select the Independent Administrator was opaque and did not allow for input or guidance from the MSG. He noted that this opacity is particularly incongruent for a transparency initiative. The commenter suggested that the USEITI Secretariat explore other federal contracting processes, such as one used by the US Department of Energy in the nuclear fuel sector, and other best practices around federal contracting that are more transparent. Greg Gould, DOI ONRR, agreed to continue exploring means to enhance the transparency of the contracting process, including the federal best practices that the commenter referenced. The USEITI facilitator noted that the last bullet under the section of the draft TORs titled “X. Communications between the IA and the MSG” is intended to help address the commenter’s expressed concerns, at least in part.

An industry sector member inquired as to the consequences of an MSG member violating the TOR. The USEITI facilitator noted that, informally, this can be addressed through conversations, while formal decision making as to the severity of the violation

and attendant consequences rests with the Designated Federal Official to recommend to the Secretary for action. This is covered in Section IX, subsection I of the draft TOR.

#### **4. Subcommittee and Work Group Planning**

Mr. Gould asked the Reconciliation and Reporting Work Group to explore how the EITI International Board's recently announced "mainstreaming" policy could be applied in the US context.

#### **C. Implementation Subcommittee Recommendations**

The USEITI MSG received and discussed presentations and recommendations from two work groups of the Implementation Subcommittee: the Reconciliation and Reporting Work Group and the Tax Work Group. Each of these sets of work group recommendations and accompanying MSG discussions and decisions are summarized below. *Please note that where deliberation is in service of a MSG decision, comments are attributed by individual names and affiliation.*

##### **1. Reconciliation and Reporting Work Group Recommendations**

Jim Steward, Department of the Interior, provided an overview of the six areas in which the Reconciliation and Reporting Work Group made recommendations to the Implementation Subcommittee – with the Implementation Subcommittee now making those same recommendations to the full USEITI MSG. These recommendations were intended to set the stage for validation of the USEITI 2016 Report at the end of the year. The work group made recommendations in the following six areas:

- Project-level reporting
- Revenue streams
- Reporting template and guidelines
- Company materiality
- Sampling
- Margin of variance

The slides with Mr. Steward's overview and with recommendations from the Reconciliation and Reporting Work Group are available at:

[https://www.doi.gov/sites/doi.gov/files/uploads/2016Mar04\\_Reporting%20and%20Reconciliation%20Work%20Group\\_MSG.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/2016Mar04_Reporting%20and%20Reconciliation%20Work%20Group_MSG.pdf).

##### **a) Project-level Reporting**

Paul Bugala, member of the Reconciliation and Reporting Work Group, summarized the work group's process and recommendation about project-level reporting for 2016. He explained that, given that extensive discussions about this topic had already been held in the Implementation Subcommittee, the work group concluded that the positions of the industry and CSO sectors are presently irreconcilable. As such, the work group reverted to a previous agreement and made the following recommendation to the Implementation Subcommittee – with the Implementation Subcommittee now making those same recommendations to the full USEITI MSG:



*The recommendation of the Reporting and Reconciliation Workgroup is that the reconciled payment reporting of the 2016 USEITI should follow the first part of Section 5.2e of the EITI Standard that states: "It is required that EITI data is presented by individual company, government entity and revenue stream." We were unable to reach a consensus on a project-level reporting definition consistent with Section 5.2e in the necessary timeframe.*

Please see pages 1-2 of the following document for the complete recommendation on project-level reporting from the work group:

<https://www.doi.gov/sites/doi.gov/files/uploads/Reporting%20and%20Reconciliation%20Workgroup%20Recommendations.pdf>.

In response to Mr. Bugala's comments, MSG members asked the following questions and made the following comments.

- Zorka Milin inquired whether the strong opposition to project-level reporting in the United States among many companies takes into account the fact that many of these companies that have operations in Europe will have to report at the project level in coming months under EU law.
  - John Harrington responded by explaining that, while there are differences of opinion among industry sector members, many companies are concerned about the prospect for competitive harm from revealing information at the project level and are also not convinced that this reporting will effectively further EITI's goals for greater transparency and fighting corruption in the United States. As such, the industry sector is in favor of waiting until the Securities and Exchange Commission (SEC) releases rules concerning project-level reporting under §1504 of the Dodd-Frank Act.
- Danielle Brian asked whether work group members anticipate that their recommended approach could risk validation of the USEITI 2016 Report.
  - Mr. Harrington suggested that the EITI Board is likely to be sympathetic to the fact that USEITI is trying to act consistently with SEC and EU rules and that, on this issue, SEC rules are in process and have not been put in place.
  - Mr. Bugala cautioned against assuming that the Board would be okay with the US approach because it is the Board's Validation Committee that ultimately makes the decision about validating the US report. He added that, even with this caution, he stands behind the work group's recommendation.
  - Mike LeVine, Oceana, suggested that, while this may be the right decision for the time-being, the MSG ultimately does not know what the implications for validation will be.
  - Greg Gould stated that the recommendation clarifies that company-level reporting can serve as a surrogate for project-level reporting until the SEC rule-making process is finalized. As such, the work group's recommendation should not present a validation risk.

- Ms. Milin responded that company-level reporting and project-level reporting are separate processes and are not substitutable.
- Michael Gardner, Rio Tinto, opined that USEITI risks erring if it defines project-level reporting itself based on the disparate rules that have been released from the EU and Canada instead of waiting for the SEC. He provided the example of Quebec adopting a different definition than the rest of Canada.
- Ms. Milin noted that her organization, Global Witness, has participated in discussions at the level of the EITI International Board about this issue and that the International Board has also agreed to disagree.
- In response to questions from Chris Chambers, Freeport-McMoRan Copper & Gold, and from Ms. Brian, Mr. Gould confirmed that the federal government's unilateral disclosure of revenue data would remain at the company level until the SEC rule is finalized, at which point it will move to project-level reporting to the extent allowable by US law.

➤ **Decision: The MSG adopts the Implementation Subcommittee's recommendation on project-level reporting.**

#### **b) Revenue Streams**

Jim Steward recounted that the work group discussed the revenue streams to include in the 2016 USEITI Report. The discussion covered the revenue streams currently included in the 2015 USEITI Report, revenue streams that were intentionally excluded from the 2015 USEITI Report, as well as potential new revenue streams (e.g. forestry revenue).

Based on this discussion, the work group and the Implementation Subcommittee recommended to the MSG that no change be made as to the revenue streams included in the 2016 Report. The Implementation Subcommittee's complete recommendation can be found on pages 3-4 of the following document:

<https://www.doi.gov/sites/doi.gov/files/uploads/Reporting%20and%20Reconciliation%20Workgroup%20Recommendations.pdf>.

Mr. Harrington added that, while BLM helium revenue would be excluded from the report as last year, a description of the government's helium policy will be included in the contextual narrative portion of the report, as it was in the 2015 report.

Keith Romig noted that, if additional commodities are included in the scope of USEITI over time, additional revenue streams pertaining to these commodities would need to be added.

➤ **Decision: The MSG adopts the Implementation Subcommittee's recommendation on revenue streams.**

**c) Reporting Template and Guidelines**

Mr. Steward explained that the work group discussed possible paths to streamline the burden associated with reporting and reconciling revenue streams, particularly the “ONRR Other Revenues” revenue stream. Mr. Harrington added that the work group ultimately could not determine whether any changes that it would recommend would lower the reporting and reconciling burden without reducing the quality of these activities. The work group hopes that the lessons that both the Independent Administrator and reporting companies learned from participating in reporting and reconciliation in 2015 will smooth the process for 2016.

The work group and the Implementation Subcommittee made the following recommendation to the MSG:

*For the 2016 USEITI Report, no content changes will be made to reporting template and guidelines that were submitted in the 2015 USEITI Report.*

Please see page 5 of the following document for the complete recommendation on project-level reporting from the work group and the Implementation Subcommittee: <https://www.doi.gov/sites/doi.gov/files/uploads/Reporting%20and%20Reconciliation%20Workgroup%20Recommendations.pdf>.

- **Decision: The MSG adopts the Implementation Subcommittee’s recommendation on reporting template and guidelines.**

**d) Company Materiality**

Mr. Steward recounted that the work group discussed the relevant year of data for reconciliation purposes, CY 2014 or CY 2015, and considered the advantages and disadvantages to both. The work group and Implementation Subcommittee recommended that USEITI use CY 2015 data in the 2016 report because it could increase company data availability and diminish the effect of company mergers, acquisitions, and divestures (e.g., which company is responsible for reporting the revenue for reconciliation). This would mean CY2014 data would not be required to be reported (but ONRR can unilaterally disclose this data for purposes of continuity and the on-line report).

In addition, following discussion, the work group and Implementation Subcommittee recommended that USEITI continue to use the same method of company determination, specifically by using only ONRR reported revenues, as was used for the 2015 report.

Finally, the group work group and Implementation Subcommittee decided maintaining the 2015 reporting and reconciliation threshold is an important step to achieve for the 2016 USEITI Report. An 80% threshold was used for the 2015 USEITI report; the workgroup decided that based on the company composition of 2015, the decisions of the MSG, and the outcomes of the 2015 report, that an 80% revenue threshold would

be appropriate for the 2016 USEITI report, given that in any year the actual dollar threshold in absolute dollars will vary based on market conditions and other factors.

Please see pages 6-8 of the following document for the complete recommendation on company materiality from the work group and the Implementation Subcommittee:  
<https://www.doi.gov/sites/doi.gov/files/uploads/Reporting%20and%20Reconciliation%20Workgroup%20Recommendations.pdf>.

In response to Mr. Steward's comments, MSG members asked the following questions and made the following comments.

- Dan Dudis of Public Citizen questioned why company materiality should be defined using only ONRR revenues when there are companies, particularly in the hard rock mining sector, that do not pay significant revenues to ONRR but that do pay significant revenues to the US Internal Revenue Service (IRS) in corporate income taxes. He suggested that, even though corporate income taxes are confidential, proxy information, such as production volumes, could be used to determine which companies pay significant quantities in corporate income taxes to the IRS. Including these companies would provide a fuller picture of the extractives sector in the United States.
  - Ms. Milin responded that there does not exist a good proxy indicator for corporate income tax payments.
    - Mr. Dudis replied that there should be some statistical correlation between a company's level of revenues and the amount that it pays in taxes. If, in fact, there is not a strong correlation between these two variables, that itself is an interesting story for USEITI to share.
  - Ms. Brian supported Mr. Dudis' call for an exploration of avenues to include companies in USEITI reporting that make significant tax payments but are not considered material according to ONRR revenue collections.
  - Mr. Mussenden reminded the group that the MSG's focus for 2016 is on achieving validation of its report. He agreed that it may be worth exploring other avenues for including other companies but suggested that the MSG focus on making decisions that facilitate validation of the 2016 report.

Mr. LeVine and Ms. Brian inquired about the change in the composition of companies that would be included in the 2016 materiality threshold as compared to 2015. Per the IA, it was noted that seven companies dropped off from the 2015 to the expected 2016 report. Of those seven companies, five companies reconciled CY2013 revenues. Three (3) new companies will be added from 2015 to the 2016 report

- Mr. LeVine also inquired about the future implications work group's recommendation that USEITI stay at an 80% revenue threshold for 2016 as opposed to moving to the 90% threshold that had previously been envisaged.
  - Mr. Harrington explained that moving to the 90% threshold would draw in 74 companies, many of them smaller, and the work group has concerns that some of these additional companies may not participate in USEITI reporting.

The work group's recommendation only applies to the 2016 report and does not bear on future years.

- Ms. Kohler added that not all of the companies that were included in the materiality threshold in 2015 elected to participate in revenue reconciliation and that it may be harder to convince companies to participate in 2016 given the ongoing low price environment for commodities and given that some of the in-threshold companies have filed for bankruptcy protection.
- Mr. Gould noted that the July 2013 MSG meeting summary contains a statement indicating that the USEITI MSG would decide about the 2016 company materiality threshold based on the results of 2015 reporting.
- Mike Matthews, State of Wyoming, suggested that the MSG decide to focus on percentage thresholds (e.g. 80% or 90%) going forward, as opposed to dollar revenue levels (e.g. \$50 million) so as to better account for fluctuating commodity prices.
- Mr. LeVine expressed his support for the Implementation Subcommittee's proposal to keep the company materiality threshold at 80% for 2016 but noted that this is a change from the MSG's previous planning and suggested that the MSG include a statement clarifying its intention.
  - Aaron Padilla, American Petroleum Institute, cautioned against including a statement of this sort as a caution against confusing USEITI's standard for validation.
- Ms. Brian and Mr. LeVine posited the importance of having the MSG affirmatively confirm that the decision to stay at an 80% materiality threshold for 2016 based on the results of 2015 reporting and other circumstances is not reflected in the USEITI candidacy application. They also pressed for the formation of a work group to focus on defining materiality for 2017 in order to separate out and rationalize two separate considerations: the level of revenue payments that USEITI considers to be "material" and the number of companies that are included in reporting.
  - Ms. Kohler responded to the proposal to create a working group focused on materiality by expressing concern about the MSG taking on additional priorities, beyond focusing on validation, in 2016.
  - Mr. Gould suggested that the International Board's focus on "mainstreaming" may allow for some efficiencies in reporting that could allow for consideration of other issues, such as defining materiality.
  - Mr. Harrington suggested that the Implementation Subcommittee consider the proposal for forming a work group focusing on defining materiality.

➤ **Decision: The MSG adopts the Implementation Subcommittee's recommendation on company materiality.**

**e) Sampling**

Mr. Harrington opened by reviewing the discussion about the use of statistical sampling as a way to streamline the reconciliation process from the December 2015 MSG meeting. He recounted that sampling may provide an opportunity to reduce some

amount of effort from the reconciliation process without diminishing the reporting of data from in-scope companies. He also noted that the United States has very high accounting standards and that the 2015 USEITI Report reconciliation results yielded no unexplained discrepancies.

Based on its exploration of the issue, the work group and the Implementation Subcommittee recommended that sampling not be used as the basis for reconciliation in the 2016 report but that the Independent Administrator use 2016 data to explore the benefits and methodology of sampling that may be used in subsequent USEITI Reports and share those results with the working group and implementation subcommittee.

Please see page 9 of the following document for the complete recommendation on company materiality from the work group and the Implementation Subcommittee:  
<https://www.doi.gov/sites/doi.gov/files/uploads/Reporting%20and%20Reconciliation%20Workgroup%20Recommendations.pdf>.

In response to Mr. Harrington's comments, MSG members asked the following questions and made the following comments.

- Mr. Gardner and Mr. Bugala requested that the Independent Administrator (IA) report back to the MSG on how much time and money a sampling approach would save on the part of the IA, companies, and the government.
- Mr. Gardner suggested that adopting a sampling-based approach could conserve USEITI resources around the reconciliation process and thereby free up resources to use in other areas of MSG interest, such as expanding scope to include additional commodities.
  - Ms. Milin suggested that the “mainstreaming” approach suggested by the International Board could be a more effective approach to conserving resources than trying to create a new, different sampling approach that may pose validation issues.
- Various MSG members raised questions about the implications of adopting a sampling-based approach for the prospects of achieving validation of USEITI reports.
  - Ms. Kohler suggested that adopting a sampling-based approach could actually enhance the prospects for USEITI being successfully validated since it would take the pressure off of needing to have all companies within the materiality threshold participate in reconciliation.
  - Mr. Bugala suggested that, with 69% of DOI revenue reconciled in the 2015 Report given the number of companies within the materiality threshold who participated in validation, hopefully USEITI can have 80% of revenues reconciled in 2016. The MSG has previously decided on the 80% threshold.
  - Mr. Matthews pointed out that sampling is a very widely-used and respected accounting and auditing approach that is widely used in the United States and Europe in the extractives industries and in other industries, including

when investigating suspected fraud. Sampling is not a “lesser” approach in any way.

- Mr. Harrington suggested that the IA should develop a detailed proposal for how sampling would work for the MSG’s consideration and that the MSG would then engage in a conversation with the International EITI Board about implementing sampling. Sampling would not be implemented unilaterally by USEITI.
- Ms. Kohler cautioned that the reporting and reconciliation process for 2016 will likely be smoother only for those companies that participated in USEITI in 2015, not for those companies that chose not to participate in reconciliation or those that newly-meet the materiality threshold. Several new companies are included in the 2016 report that were not included in the 2015 report. Furthermore, due to the industry’s financial downturn, some of those that opted to participate last year may not do so again in 2016.
  - John Mennel, Independent Administrator team member from Deloitte, stated that there three new companies that meet the materiality threshold in 2016 that did not do so in 2015. He also noted that Mongolia’s EITI has started using a sampling-based approach and that there are some EITI countries that are not reporting or reconciling 100% of company revenues and that are still achieving validation. He suggested that the MSG should discuss what approach would work for the US context.

➤ **Decision: The MSG adopts the Implementation Subcommittee’s recommendation on sampling.**

**f) Margin of Variance**

Mr. Steward explained that the work group’s discussions explored raising the margin of variance percentage or floor thresholds. Through evaluation of actual 2015 USEITI Report reporting and reconciliation data, however, the work group concluded that reconciliation volume is not very sensitive to changes in the margin of variance percentage or floor thresholds and that order of magnitude adjustments would need to be imposed to have a material effect. As a result, the work group and Implementation Subcommittee recommended that no changes be made to margin of variance percentage or floor thresholds for the 2016 USEITI Report.

➤ **Decision: The MSG adopts the Implementation Subcommittee’s recommendation on margin of variance percentage and floor thresholds.**

**2. Tax Work Group Recommendations**

Curtis Carlson, Department of the Treasury, provided an overview of the Tax Work Group’s discussions and recommendations to the Implementation Subcommittee – with the Implementation Subcommittee now making those same recommendations to the full USEITI MSG. These recommendations were intended to set the stage for validation



of the USEITI 2016 Report at the end of the year. The work group made recommendations in the following six areas:

- Webinars for companies' tax staff
- Industry peer discussions
- Opt in for companies not in scope

The slides with Mr. Carlson's overview and with recommendations from the Tax Work Group are available at:

[https://www.doi.gov/sites/doi.gov/files/uploads/2016Mar04\\_Tax%20Work%20Group\\_MSG.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/2016Mar04_Tax%20Work%20Group_MSG.pdf). In addition, a more detailed version of the Tax Work Group's discussion and recommendations is available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/Tax%20Work%20Group%20Recommendations.pdf>.

By way of background, Mr. Carlson also explained that per the current SEC timeline for finalizing its 1504 draft rule, calendar-year corporate income tax filers are expected to report for the first time on their 2017 taxes by the end of May 2018. Out of the 41 in-scope companies for USEITI reporting in 2016, 32 use a calendar year for filing, two use a June fiscal year, and seven have no filing information available.

In response to a question from a government sector member about the seven companies that do not have tax filing information available, Mr. Carlson explained that these companies are privately held.

#### **a) Webinars for Companies' Tax Staff**

Mr. Carlson recounted that the Tax Work Group is recommending that the Treasury Department and the Independent Administrator (IA) lead meeting/webinars with in-scope firm's tax staff (in Houston and Denver, spring 2016), similar to last year's meetings with firms' royalty payment accounting staff. The goal of these meetings is to ensure greater understanding, encourage companies' tax staff to participate in USEITI tax reporting/reconciliation, and reduce burden on IA and industry by answering as many questions as possible before reporting and reconciliation begins.

In response to Mr. Carlson's comments, MSG members asked the following questions and made the following comments:

- Ms. Milin requested that the invitation for the webinars be shared with MSG members who would like to listen in. In response, Mr. Mennel explained that the 2015 company webinars were only for reporting companies in order to allow for candid discussions.
- In response to a question from Mr. Mussenden about whether an industry sector representatives would be reaching out to companies to encourage them to participate in webinars, Mr. Mennel responded to say that the IA would be inviting companies to the webinars.



- Mr. Gardner inquired about the aspect of the Tax Work Group’s recommendation that the IA ask member MSG companies (or reporting companies) to explain their experience with tax reporting and/or reconciliation.
    - Mr. Mennel explained that the IA would reach out to the point of contact in companies that participated in tax reporting in 2015 to inquire if they would be willing to share about their experience with the other companies participating on the webinar.
    - Mr. Gardner suggested that placing phone calls to these individuals could be helpful.
- **Decision: The MSG adopts the Implementation Subcommittee’s recommendation on holding webinars for companies’ tax staff.**

***b) Industry Peer Discussions***

Mr. Carlson explained that the Implementation Subcommittee is recommending that efforts be made to continue discussions between industry members and within trade associations following the EITI Conference in Lima. Specifically, trade associations and companies will discuss the benefits of participating in USEITI with other in-scope companies, with a focus on participating in income tax reporting.

In response to Mr. Carlson’s comments, Ms. Milin requested that industry sector members participating in this peer-to-peer effort provide updates to other MSG members. Mr. Padilla agreed to provide these updates and Mr. Gould offered to add this as an agenda item to the weekly Implementation Subcommittee conference calls. Ms. Taylor suggested that the lessons from these peer discussions could help shape the IA’s and the MSG’s communications with companies. Mr. Mennel also offered to provide ongoing updates to the MSG about the number of companies likely to participate in different aspects of reporting and reconciliation.

- **Decision: The MSG adopts the Implementation Subcommittee’s recommendation on encouraging industry peer discussions.**

***c) Opt-in for Companies Not in Scope***

Mr. Carlson stated that there may be companies not in-scope for 2016 reporting that wish to report and/or reconcile federal corporate income taxes and DOI revenue as part of their corporate citizenship and transparency efforts. The Implementation Subcommittee is recommending that these companies be allowed to opt into tax (and DOI revenue) reporting and/or reconciliation. This would not be an alternative to reporting requirements now or in the future.

In response to questions from MSG members about how opt-in reporting for out-of-scope companies would work, Mr. Mennel explained that the IA would conduct outreach to companies in the extractives sector that are already publicly disclosing their non-tax and tax payments to the government and give them the option to participate in

USEITI reporting. This reporting could take the form of completing the same form as in-scope companies are asked to complete, providing their already-publicly disclosed information to the IA, or simply affirmatively confirming numbers that the IA has gleaned from publicly available documents. MSG members offered the following comments.

- Mr. Gould added that it is important to have some sort of active participation in reporting from the companies, even if it is simply confirming the accuracy of publicly available data that the IA provides to them, in order for it to count as “reporting” under the EITI Standard.
- Mr. Padilla and Ms. Milin additionally suggested that, while the Tax Work Group has in mind a relatively small number of companies, especially in the mining industry, that are already voluntarily disclosing corporate income tax payments, the voluntary opt-in option can be offered to any company that would like to participate. Mr. Mennel added that, if the MSG decides to accept the Implementation Subcommittee’s proposal around opt-in for out-of-scope companies, the IA can draft a proposal detailing an outreach strategy to companies.
- Mr. Gardner suggested that companies are more likely to participate if the opt-in process is easier and less prescriptive. For example, filling in the same reporting form as in-scope companies would be more onerous and may discourage companies from participating. Ms. Kohler reiterated that the proposal from the IA should focus on making the participation by companies as easy as possible.
- Mr. Gould suggested that the USEITI report could have a separate table featuring data from out-of-scope companies that chose to participate in reporting.
- Ms. Brian questioned whether there should be more of a methodology, such as the size of companies, in terms of which companies are invited to opt into reporting. In response, Mr. Carlson and Ms. Milin explained that, since this is a purely voluntary offer to allow companies to participate in USEITI reporting, the methodology is not as relevant. Companies that the IA approaches but that choose not to participate in this supplementary opt-in process would not be named in any way. Mr. Gould added that ONRR has a list of larger companies in the extractives sector that it could provide to the IA in order to see which of those companies have already publicly disclosed revenue payments to the government.
- Phillip Denning, Shell Oil Company, and Mr. Padilla cautioned that, despite the MSG’s and the IA’s various efforts, companies may not choose to participate in corporate income tax reporting. In response, Mr. Carlson and Ms. Milin clarified that the voluntary opt-in process for out-of-scope companies would have no bearing on validation since the participating companies are out of scope. Ms. Milin added that the expectation for corporate income tax reporting and reconciliation from in-scope companies is clearly stated in the EITI Standard.

➤ **Decision: The MSG adopts the Implementation Subcommittee’s recommendation on opt-in to USEITI reporting for out-of-scope companies.**

## D. Potential Other Commodities

The USEITI MSG received presentations and discussed considerations around introducing additional commodities to the scope of USEITI. The classes of commodities discussed were forestry and various other commodities (including additional metals, representative industrial minerals, and hydropower). Presentations by Michael Bechdolt, US Bureau of Land Management (BLM) on forestry, and Keith Romig, on the inclusion of various other commodities, along with accompanying MSG discussions are summarized below.

### 1. Forestry

Michael Bechdolt, BLM, joined the MSG meeting and made a presentation about the BLM's forest and woodland public land management program. Mr. Bechdolt provided background information such as the location of BLM public lands, the nature of forest ownership in the United States, and the nature of the forest and woodlands that BLM manages. He proceeded to review the statutory laws governing BLM's management of forests and woodlands and provided an overview of the timber harvest from BLM-managed lands including its volume, the timber sale process, revenues generated, and the distribution of timber sale receipts. Mr. Bechdolt also explained BLM's "stewardship contracting" approach to managing its forestry lands and touched on the harvest of special forest products that BLM also manages. Mr. Bechdolt's presentation slides are available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/BLM%20Forestry%20%20Presentation%20%20Updated.pdf>.

In response to Mr. Bechdolt's presentation, MSG members asked the following questions and made the following comments *with responses by Mr. Bechdolt indicated in italics*.

- A CSO sector member inquired about BLM's role in managing mineral rights on non-BLM lands. A government sector member explained that BLM manages mineral rights on various non-BLM lands, including US Forest Service lands and some tribal lands.
- In response to a question from a CSO sector member, *Mr. Bechdolt stated that BLM's and the Forest Service's timber sales processes are very similar, with both taking about six to seven years to complete, with the possibility of expediting in case of forest fire.*
- CSO sector members asked about the BLM's management of its land to accommodate multiple uses and to account for protected areas. *In response, Mr. Bechdolt explained that one of the first step's in BLM's planning process is to allocate land for various uses, including cultural sites and riparian reserves. In addition, lands designated for timber production still contain constraints such as leaving a buffer of trees adjacent to streams.*

- In response to a question from a CSO sector member, a government sector member indicated that ONRR does not collect revenues resulting from timber production on US Forest Service lands.
- In response to a question from a CSO sector member, *Mr. Bechdolt stated that the downturn in lumber production in the late 2000s was due to the 2008 economic recession and collapse of the US housing market. (see slide #15)*
- A CSO sector member confirmed with Mr. Bechdolt that the US Forest Service manages approximately 90% of forest land while BLM manages the remaining 10%.
- A CSO sector member observed that, in contrast to minerals, timber and forest lands need to be managed. Landowners, including the federal government, pay for that management and both BLM and the Forest Service have come up with a mechanism by which timber companies contribute to forest land management through stewardship contracting. *(see slide #22)*
  - In response to a question from a CSO sector member, *Mr. Bechdolt explained that forest lands require management because the government's fire suppression policy over the past 80 years has resulted in much denser forests that require management to protect against forest fires. In addition, BLM manages forests for the benefit of rural, local communities under the 1937 Oregon & California Act.*
  - In response to a question from a CSO sector member about the differing mandates for BLM management under the 1937 Oregon & California Act and on Forest Service lands, *Mr. Bechdolt clarified that BLM interprets its mandate under the Oregon & California Act to manage for multiple uses although the act does speak to the sustainable production of timber specifically.*
- In response to a question from a government sector member about the mechanics of stewardship contracting, *Mr. Bechdolt explained that BLM values a stand of timber at a given amount and sells the right to harvest that stand to a company. In addition, BLM pays that same company an amount under stewardship contracting for habitat or other improvements. The company then takes the timber that it harvests from the timber stand, conducts stewardship work, and sells the harvested timber for the market price on the open market.*
- In response to a question from a CSO sector member about safety net and Secure Rural School payments to counties covered by the 1937 Oregon & California Act, *Mr. Bechdolt explained that 50% of receipts from timber sales in those counties continue to go to the counties with the balance of federal payments to those counties comprised of contributions from the general fund. (see slides #18-19)*
- In response to a question from a CSO sector member about data accessibility, *Mr. Bechdolt indicated that BLM's public lands statistics webpages (see: [http://www.blm.gov/public\\_land\\_statistics/](http://www.blm.gov/public_land_statistics/)) provide useful data to the public but may not have data at the county level. In addition, secure rural schools payments are posted by county (see: <http://www.blm.gov/or/rac/ctypaypayments.php>).*

- In response to a question from a CSO sector member about special forest products revenues, *Mr. Bechdolt clarified that the revenue amounts shown on slides #25-26 indicate BLM collections for permits, not the value of the products harvested.*
- In response to a question from a CSO sector member about service contracts for building roads, *Mr. Bechdolt stated that both BLM and the Forest Service do let contracts for road construction.*
- The USEITI facilitator inquired about the total value of receipts to the federal government from timber production, observing that the federal government collects approximately \$12 billion from minerals production. *Mr. Bechdolt indicated that total federal receipts from timber likely totaled less than \$1 billion.*

Mr. Gould thanked Mr. Bechdolt for his presentation and responses to MSG members' questions. He also indicated that the USEITI Secretariat would try to line up a presentation from a representative of the US Forest Service at a future MSG meeting.

## 2. Other Commodities

Keith Romig made a presentation about expanding the scope of USEITI. He made the case that the current scope is limited and to only a subset of commodities extracted in the United States and that the MSG should consider expanding its scope to include additional commodities in the future. Mr. Romig proposed a four-stage program to expand USEITI's scope:

1. Additional metal commodities
2. Inclusion of representative industrial minerals
3. Inclusion of forestry
4. Evaluation of whether or not to include hydropower

Mr. Romig closed his presentation by noting that the inclusion of additional metals would not necessarily change the functioning of USEITI. However, adding industrial minerals, forestry, and hydropower would require changes in the form of added representation on the MSG related to these commodities, additional resources, and possibly changes in government data collection. Mr. Romig's presentation slides are available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/Expanding%20the%20Scope%20of%20USEITI.pdf>.

In response to Mr. Romig's presentation, MSG members asked the following questions and made the following comments:

- In response to a question from an industry sector member, Mr. Romig stated that there is significant production of industrial minerals on both federal lands and on other, non-federal, lands.
- In response to a question from a government sector member about whether these new commodities would be included in the revenue reporting and reconciliation process, Mr. Romig suggested that an enhanced scope for USEITI

in future years could be reflected both in the contextual narrative and in the reporting and reconciliation aspects of the report.

- A representative of the IA team reported that adding limited contextual information about the proposed additional commodities would be covered under the IA's existing contract but that work beyond this, such as creating additional county case studies focusing on these commodities, would be beyond the scope of the IA's contract.
- A CSO sector member suggested that, since some of the proposed commodities are extracted primarily in one or two states, inclusion of the commodities could be linked to those states opting into USEITI.
- A government sector member noted that, although USEITI is focused on achieving validation for 2016, the presented information about including additional commodities is very helpful to consider for future years.
- An industry sector member observed that there are at least two paths to including additional commodities: through states including them via the state opt-in process and as a result of the MSG deciding to expand the scope of USEITI. She added that, if the MSG decides to expand scope, additional representatives to the MSG pertaining to the added commodities should be given additional seats on the MSG, not supplant the seats allocated to existing commodities.

## **E. Communications Subcommittee Update**

Members of the Communications Subcommittee provided updates on efforts to outreach to companies around the 2016 report as well as general outreach efforts around the 2015 report. These updates and accompanying MSG discussions are summarized below.

### **1. Outreach to Companies for 2016 Reporting**

Isabelle Brantley, Independent Administrator team member from Deloitte, made a presentation about communicating with companies for the 2016 USEITI Report. She provided an overview and timeline of outreach activities including letters, webinars, emails, and conversations at the EITI Conference in Peru. She also provided additional detail about the planned webinars focused on non-tax revenue reporting and corporate income tax reporting. Ms. Brantley's presentation slides are available at:

[https://www.doi.gov/sites/doi.gov/files/uploads/2016Mar04\\_Communications%20Subcommittee\\_MSG.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/2016Mar04_Communications%20Subcommittee_MSG.pdf).

In response to Ms. Brantley's comments, MSG members asked the following questions and made the following comments.

- A CSO sector member asked about the prospect of having more senior DOI officials, such as the Deputy Secretary of the Interior, involved in communications efforts with companies in order to more effectively encourage companies to participate in USEITI.

- Mr. Gould noted that Kris Sarri, as the Principle Deputy Assistant Secretary, Policy Management and Budget, is one of the most senior officials at DOI and will be signing the thank you letters to companies that participated in USEITI in 2015.
- Mr. Mussenden said that, although the USEITI Secretariat has previously made requests to secure participation from even more senior DOI officials, it would try again. He also suggested that outreach from senior officials at organizations in other sectors, such as the American Petroleum Institute, could also encourage company participation.
  - An industry sector member responded that, since the government initiated the implementation of USEITI, participation from senior government officials is critical so that companies perceive some benefit from their participation.
- A CSO sector member inquired whether DOI sent different “thank you for participating in USEITI in 2015” letters to companies based on whether they elected to participate in revenue reconciliation or income tax reporting.
  - An industry sector member responded that Communications Subcommittee opted to send the same letter to all participating companies on the theory that positive feedback would be more likely to elicit continued future participation.
  - An industry sector member added that it was very important that the thank you letters be sent to companies before they started receiving communication from the IA requesting participation for 2016. The Communications Subcommittee would be happy to work further in advance to develop the 2016 thank you letters and receive the MSG’s input on those.
- In response to a questions from an industry sector member inquiring as to how the IA would approach those companies that declined to participate in USEITI reporting in 2015, Ms. Brantley explained that the IA would approach them as if they are new to USEITI and would articulate why participating in 2016 is particularly important due to the validation process.
- An industry sector member noting that many companies needed longer than the allotted 90 days for reporting in 2015, asked how long companies would be given in 2016.
  - Ms. Brantley responded that companies would be given 90 days for reporting and 30 days for reconciliation. The IA hopes that the process will be easier in 2016 for the many companies that participated in 2015.
- An industry sector member requested that MSG members have an opportunity to review the letter that the IA is sending to companies to invite them to participate in the informational webinars and to participate in USEITI reporting.<sup>1</sup>

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<sup>1</sup> *Editor’s note:* The Independent Administrator provided a draft of the letter to MSG members at the end of the first day of the MSG meeting in order to provide MSG members a chance to

- In response to a question from a CSO sector member about the recipients of the IA's letter to companies, Ms. Brantley said that the letter would mostly go to the same points of contacts that the IA had in 2015, with some updates.
- A government sector member suggested that the USEITI Secretariat send out letters to companies that are tailored to the level of reporting and reconciliation that companies elected to participate in for 2015.
- An industry sector member noted that any letters to companies newly in scope for 2016 would likely need more background and explanation about USEITI.
- An industry sector member requested that the IA and the USEITI Secretariat coordinate their communications with companies.

## **2. Outreach Following Release of 2015 USEITI Report**

Ms. Kohler reported that the Communications Subcommittee has been working on putting together outreach efforts around the 2015 USEITI Report including webinars to solicit feedback about the 2015 report and guidance for the 2016 report as well as outreach to Congress. The first webinar could be held in early April and, while it will be hosted in Washington DC, it will be available remotely online. It will likely be held after 2:00 pm (EDT) in order to facilitate participation from people in western time zones as well as the general public. Future webinars could also be tailored with issue- or location-specific information. Ms. Kohler also noted that USEITI has not received much public input or feedback from its existing public engagement channels.

Ms. Betsy Taylor, Virginia Tech University, as a member of the subcommittee, added that the intention is to record the webinar and post it online for public access. She also suggested that the webinar focus on asking participants what questions they would like to have answered by USEITI in order to more proactively engage participants.

A CSO sector member noted that Kern County, California has expressed interest in engaging with USEITI and that the State and Tribal Opt-in Subcommittee hopes to have more information about holding a subcommittee meeting in a target community at the next MSG meeting.

## **F. Independent Administrator's Updates**

Members of the Independent Administrator team from Deloitte provided updates on plans around quarterly updates to the online report as well as the overall timeline for 2016. These updates and accompanying MSG discussions are summarized below.

### **1. Quarterly Updates to Online Report**

Sarah Platts, Independent Administrator team member from Deloitte, presented an overview of the IA's project plan for creating the USEITI 2016 Report with a focus on the

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review the letter and provide advisory comments. The IA took these comments and suggested edits under consideration and finalized the letter on the second day of the MSG meeting.



plan for updating the contextual narrative portion of the report. These updates will be quarterly and are proposed to include three new visualizations:

- Abandoned Mine Lands (AML) Fund & Coal Excise Tax Contextual Information
- Concept for State & Tribal Additions
- Budget, Audit, and Assurance Process Visualization

In addition, Ms. Platts explained that the IA will support the addition of state and tribal information in the 2016 report, including contextual narrative content and available data; will update data and revise content for the 12 County Case Studies; and will write and design a short Executive Summary pdf report, and provide 18F with remaining data and content updates for the Online Report. Additional information is available in Ms. Platt's presentation slides, available at:

[https://www.doi.gov/sites/doi.gov/files/uploads/2016Mar03\\_Contextual%20NarrativeMSG.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/2016Mar03_Contextual%20NarrativeMSG.pdf).

*a) MSG Discussion About Updates to Online Report*

In response to Ms. Platts' presentation about the IA's plans for updating and developing new content for the contextual narrative in 2016, MSG members made the following comments and asked the following questions.

- The USEITI facilitator inquired about the MSG's process for review and sign-off on the 2016 report materials. In response, Mr. Gould said that the Online Report Work Group of the Implementation Subcommittee is primarily responsible for working with the IA. The Online Report Work Group can also elevate concerns to the Co-Chairs, as needed. The Co-Chairs can choose to bring issues to the full MSG, to a Subcommittee, or to select MSG members for review and discussion. The executive summary portion of the 2016 report will undergo review by the full MSG.
  - A CSO sector member articulated the importance of allowing for the full MSG to review the content that will be included in the online report because MSG members are involved in outreach and have information and insight from users of the USEITI website about what types of content are of interest to them.
- A CSO sector member requested that the MSG discuss what new content and visualizations the IA should include in 2016. She also inquired about the relationship between the visualizations for state and tribal opt-in that the IA is developing and the work of the State and Tribal Opt-In Subcommittee.
  - IA team members explained that the IA will create up to five case studies that will be synthesized with the visualization on state and tribal additions.
  - A CSO sector member expressed concern about whether the IA may be double-counting its work around state and tribal opt-in because the final product would be a visualization that incorporates the case studies. In response, Ms. Brantley acknowledged that there is some synthesis of effort.
- A CSO sector member questioned whether the IA is being pushed to unnecessarily rush its process of developing the visualizations and other content for the report due

to an MSG-imposed deadline of November 2016 for completing the report (whereas the 2016 USEITI Report is due to the International Secretariat in March 2017). MSG members clarified that, since EITI requires that countries produce a report each year, USEITI will need to submit its report during 2016.

- An industry sector member inquired as to how the IA decided on the three visualizations that it is proposing to create.
  - An IA team member explained that the IA presented a work plan for rolling out the three visualizations at the December MSG meeting and proposed that the IA would work with the Implementation Subcommittee to develop these. The IA discussed the visualizations with the Online Report Work Group in January. At this MSG meeting, the IA would like to have input from the MSG about the proposed topics for the visualizations (although the IA has already begun developing the Abandoned Mine Lands (AML) Fund visualizations) and, going forward, the IA will continue working with the work group and with the Implementation Subcommittee to guide the development of the visualizations.
  - *Abandoned Mine Lands (AML) Fund & Coal Excise Tax Contextual Information:*
    - Ms. Platts described the AML visualization as going into a lot more detail than was included in text form in the 2015 report. The coal excise tax is a separate visualization that would more briefly focus on what the excise tax is, the tax rates, and what is done with the revenues.
    - A CSO sector member suggested that, since the MSG discussed the AML issue extensively at the end of 2015, it may make sense for the IA to proceed with creating a visualization on that topic.
    - An industry sector member added that, while AML has been extensively discussed by the MSG, but that the inclusion of coal excise tax should be discussed by the MSG.
  - *Concept for State & Tribal Additions:*
    - Ms. Platts explained that the state and tribal additions component is intended to encompass many of the areas of the interest raised by CSO sector members, such as employment information. The section is not intended to duplicate the work of the State and Tribal Opt-In Subcommittee. The content of this section would be focused on synthesizing and presenting revenue data for states and tribes but would also include some explanation of the state and tribal opt-in process.
    - In response to a question from a CSO sector member, Ms. Platts stated that the section would likely initially focus on presenting information, including case studies, about states that are opting into USEITI but would also include more general data about other states.
  - *Budget, Audit, and Assurance Process Visualization:*

- Ms. Platts added that the IA is proposing a budget, audit, and assurance process visualization to help audiences both domestically and internationally understand the robust nature of these processes in the US.
  - Members of the industry and government sectors expressed support for including a visualization about the US budget, audit, and assurance processes in order to support USEITI's case for future mainstreaming of reporting.
  - CSO sector members countered that there are a number of important topics that could be included in the contextual narrative and the MSG should discuss how it would like to allocate limited resources since the IA is under contract to create only three visualizations in 2016.
- A CSO sector member requested that the IA provide more information about the content and datasets that would be used for the state and tribal and budget, audit, and assurance visualizations. She added that the Co-Chairs are proposing that the IA present the state and tribal additions material directly to the State and Tribal Opt-In Subcommittee.
  - An IA team member agreed to have the IA present additional information to MSG members but requested that the IA be given direction to proceed in coming weeks rather than waiting for the next MSG meeting, in June.
  - A government sector member suggested that the IA and 18F continue working with the Online Report Work Group on an ongoing basis to confirm the direction of the online report. The work group can consult with the Co-Chairs as needed.
  - An industry sector member added that the Co-Chairs can consult with experts from the MSG, as needed, on different elements of the report. She also noted that the Online Report Work Group should confirm the intended direction of the IA's work before the IA and 18F build out the online report in order to confirm that intended direction.
  - A CSO sector member also pushed for participation by MSG members in reviewing the content and design of the online report. This thread of the MSG's discussion is summarized in the next section.

#### ***b) MSG Discussion About Soliciting Non-MSG Input on Draft Materials***

Building on the call for MSG members to participate in review of the online report, the MSG discussed the procedure by which MSG members could consult with informed stakeholders outside of the MSG and get feedback on draft versions of USEITI material.

- A government sector member differentiated between the Co-Chairs bringing in individual expert members of the MSG for consultation on specific topics and areas of the report that are under development, on one hand, and sending draft material to external stakeholders before it is finalized and made public, on the other hand. The Co-Chairs would do the former but MSG members would refrain from the latter.

- An industry sector member agreed with the previous commenter and noted that USEITI did not send out any material to external stakeholders for consultation during 2015. Doing so could raise expectations about what content will or should be included before materials are finalized by the MSG. She added that there are times when materials may not be accurate, as occurred with slides presented on the first day of the MSG meeting.
- A government sector member asked whether there should be any ability to solicit input from specific external stakeholders.
  - A CSO sector member noted that the CSO sector's constituency is much broader than that of the other two sectors. She requested agreement that the CSO sector would not be accused of violating the MSG's trust if it solicits input from specific individuals outside of USEITI.
- An industry sector member suggested that materials could be solicited as topical materials (e.g. "mining materials" or "oil and gas materials") rather than as "draft USEITI materials."
- An industry sector member expressed wariness about sharing any documents outside of the MSG.
- The USEITI facilitator noted that each sector works differently and that the CSO sector tends to be more diffuse than the government or industry sectors. He suggested that the MSG create guidelines for consultation with external stakeholders.
- A CSO sector member noted that 18F has requested help from the MSG on getting public feedback since very little public feedback has been received via the USEITI website. She added that 18F already shows draft material to outsiders.
  - Members of the government sector and the IA team clarified that 18F conducts both user research and usability testing. The latter is the only area in which 18F shows draft materials to members of the public and, when doing so, the agency is only asking for input about the usability of the website, not about specific content.
- A CSO sector member proposed that an area such as abandoned mine lands (AML), around which the MSG has already had extensive discussions, could provide a test case for consultation with outside stakeholders. She proposed to share draft AML material with the six top experts on AML.
- The USEITI facilitator requested that the Co-Chairs discuss this issue further and provide guidance to the Subcommittees around consultation with external stakeholders.

## 2. Timeline for the Year

Mr. Mennel, Independent Administrator team member, reviewed the IA's project plan for creating the USEITI 2016 Report. He highlighted key process points and milestones that will need to be met in order to successfully release the USEITI report by December. Additional detail about the 2016 project plan is available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/Updated%20IA%20Project%20Plan%20as%20of%20030416.pdf>.

An industry sector member noted that, with the deadline for USEITI to submit its report for validation being March 2017, USEITI could consider releasing its 2016 report in the first quarter of 2017. He explained that, although EITI countries are generally required to produce reports every year, USEITI had 24 months after joining to publish its first report and published that report in just one year and so could argue for some flexibility with regards to its second report. All of that said, the commenter suggested that USEITI nevertheless aim to complete the 2016 report by the end of the year and thereby give itself some time in early 2017 to strategize about communicating with the EITI International Board. A CSO sector member responded by noting that the MSG's ability to frame the report in January 2017 may be constrained by decisions that the MSG is making at present.

## **G. State and Tribal Opt-in Subcommittee Update**

Members of the State and Tribal Opt-in Subcommittee provided updates on efforts to develop a methodology for inclusion of tribal information in the USEITI report as well as state opt-in to USEITI. These updates and accompanying MSG discussions are summarized below.

### **1. Tribal Opt-in and Inclusion of Tribal Data**

Mia Steinle, Project on Government Oversight, presented a proposed methodology for selecting tribes to opt into USEITI. The methodology consists of the following four questions:

- Does the tribe overlap with an MSG-prioritized state?
- Is the tribe represented on the MSG or in STRAC?
- Does the tribe make extractive data publicly available?
- Has the tribe shown a willingness to be transparent?

Additional information about the Subcommittee's methodology, including the number of tribes that meet each of these four criteria, is available in Ms. Steinle's presentation slides:

<https://www.doi.gov/sites/doi.gov/files/uploads/State%20%26%20Tribal%20Subcommittee%20Presentation.pdf>.

Ms. Steinle also noted that the Subcommittee opted against including any Alaskan tribes in its analysis due to the complicated legal framework for these tribes, Alaska native corporations, and their involvement in the production of extractive commodities. She asked Veronica Slajer, North Star Group, to speak to this issue. Ms. Slajer explained that, for the most part, Alaskan tribes are not land-based tribes in the same way that most tribes in the contiguous 48 states are. The few land-based tribes that do exist are classified as Alaska Native Corporations and some of these, as well as some village corporations, are engaged in the extractive economy. There are three Alaska Native Corporations, in particular, that are actively involved with the extractive industries in

Alaska (one in oil and gas and two in mining) and the MSG will need to consider carefully how to describe the hybrid setup that exists in Alaska.

Jerry Gidner, Department of the Interior, added that the federally recognized tribes in Alaska do not have a land base and therefore do not receive revenues from the extractive industries. Instead, some of the Alaska Native Corporations are involved with the extractive industries and USEITI will need to decide how to classify these. Mr. LeVine added that, if USEITI expands to include forestry as an in-scope commodity, many more Alaska Native Corporations would be included. In addition, some of the Alaska Native Corporations work on non-native lands. Mr. Gidner noted that this latter consideration is not limited to Alaska; for example, the Southern Ute tribe in Colorado has an oil and gas development corporation that operates on non-native lands.

A government sector member suggested that the USEITI report with regard to tribes involved in the extractive industries be limited to naming the tribes, their number of members, and providing links to tribal websites. It would be up to the tribes themselves to decide whether to publicly share information regarding their revenue collections and payments. The commenter emphasized that the release of tribal revenue information can be very risky.

A CSO sector member suggested that USEITI will need to distinguish between tribal business entities and tribal government entities. Ms. Brian, subcommittee chair, concluded the discussion about tribes by noting that inclusion of tribal data would be limited to those data that are already publicly available and that the Subcommittee would need to indicate to the IA which tribes to focus on by April.

## **2. State Opt-in**

Ms. Platts gave a presentation the MSG about state additions to USEITI. She began by reminding the MSG that the intention of state opt-in to USEITI is to focus on including state-level data in the contextual narrative portion of the report, not on reconciling state-level revenue data. She reported that the IA is working with the State & Tribal Opt-In Subcommittee to pilot the state opt-in process, including: integrating new participants, assessing currently available data, testing contextual narrative templates with stakeholders, and developing the state and tribal additions. Montana has chosen to opt-in to USEITI and is serving as the pilot for how to collect and organize the vast amounts of state data and will likely inform future opt-in efforts by states and tribes. Additional information about the opt-in process for Montana is available in Ms. Platts' presentation slides:

[https://www.doi.gov/sites/doi.gov/files/uploads/2016Mar04\\_State%20Additions\\_MSG.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/2016Mar04_State%20Additions_MSG.pdf).

In response to Ms. Platts' presentation, MSG members asked the following questions and made the following comments.

- A government sector member inquired as to which Montana state agency is leading USEITI opt-in. A CSO sector member said that it is the Montana Department of Revenue and that the agency is recognizing that the types of information relevant for USEITI also implicates other agencies.
- A government sector member highlighted that each state has a different legal and revenue framework and so, while it is helpful for USEITI to have a template, it will not be possible to take a cookie-cutter approach to state opt-in. He also noted that the eighteen identified priority states are all hurting financially due to the fall in commodity prices and so USEITI will be more successful in soliciting state participation with easy asks that require minimal effort from the states. The focus should be on using public data.
  - A government sector member added that Wyoming is likely publishing all of the same data that Montana is publishing. He expressed agreement that each state would require a tailored approach and suggested that COPAS has information about the different fiscal regimes in each state.
  - A CSO sector member noted that the IA has been very careful not to ask Montana officials for too much of their time.
- An industry sector member reminded the MSG that progress on state and tribal opt-in has been notably slow and suggested that USEITI should proceed cautiously and deliberately with expanding and accept that the pace will be slow.
  - A CSO sector member expressed hope that, after the first couple of states opt into USEITI, progress for following states will be smoother. She also recognized the hard work from all three sectors on the opt-in effort.
- A CSO sector member suggested that state opt-in is relevant for “mainstreaming” efforts because it involves enhancing collaboration between agencies and sharing data in cost-efficient ways. She suggested that setting up forums for peer-to-peer learning could be useful to state opt-in. Another CSO sector member posited that universities may be able to set up those sorts of forums.

#### **IV. Public Comments**

No public comments were offered at the December 2015 MSG meeting.

#### **V. Wrap Up / Closing**

Mr. Patrick Field, facilitator from the Consensus Building Institute, reviewed the action items and the decisions coming out of the MSG meeting.

Mr. Gould, Ms. Kohler, Ms. Brian, and Mr. Mussenden, in their roles as Co-Chairs and the acting DFO, made closing comments to the MSG, thanking the MSG, associated staff, the USEITI Secretariat, and the IA for their hard work. Mr. Paul Mussenden, Acting DFO, adjourned the meeting at 4:00 pm.

## **VI. Meeting Participants**

The following is a list of attendees from the March 8-9, 2016 USEITI MSG meeting.

Chaired by Kris Sarri, Designated Federal Officer, and Paul Mussenden, Acting Designated Federal Officer, for the USEITI Advisory Committee, US Department of the Interior.

### **A. Participating Committee Members**

#### Civil Society

Danielle Brian, Project on Government Oversight, USEITI MSG Advisory Committee Co-Chair

Paul Bugala, George Washington University

Michael LeVine, Oceana

Keith Romig, Jr., United Steelworkers

Veronica Slajer, North Star Group

Betsy Taylor, Virginia Polytechnic Institute and State University

#### Government

Curtis Carlson, Department of the Treasury

Greg Gould, Department of the Interior, USEITI MSG Advisory Committee Co-Chair

Mike Matthews, State of Wyoming - Department of Audit/Mineral Audit Division

C. Michael Smith, Interstate Oil and Gas Compact Commission

Claire Ware, Eastern Shoshone & Northern Arapaho Tribes

#### Industry

Phillip Denning, Shell Oil Company

Michael Gardner, Rio Tinto

John Harrington, ExxonMobil

Susan Ginsberg, Independent Petroleum Association of America

Veronika Kohler, National Mining Association, USEITI MSG Advisory Committee Co-Chair

Johanna Nesseth Chevron

### **B. Committee Alternates in Attendance**

#### Civil Society

Neil Brown, The Lugar Center

Daniel Dudis, Public Citizen

Zorka Milin, Global Witness

#### Government

Jim Steward, Department of the Interior

#### Industry

Stella Alvarado, Anadarko Petroleum

Chris Chambers, Freeport-McMoRan Copper & Gold Inc.



Nick Cotts, Newmont Mining  
Aaron Padilla, American Petroleum Institute  
Nicholas Welch, Noble Energy Inc.

#### **C. Members of the Independent Administrator Team in Attendance**

Isabelle Brantley, Deloitte  
John Cassidy, Deloitte  
Luke Hawbaker, Deloitte  
Alex Klepacz, Deloitte  
Sarah Platts, Deloitte  
Kurt Schultz, Deloitte

#### **D. Government and Members of the Public in Attendance**

Michael Bechdolt, Bureau of Land Management  
Nicole Gibson, Department of State  
Jennifer Heindl, Office of the Solicitor  
Marc Humpries, Congressional Research Service  
Charles Norfleet, Bureau of Ocean Energy Management  
Mia Steinle, Project on Government Oversight

#### **E. Facilitation Team**

Patrick Field, Consensus Building Institute  
Tushar Kansal, Consensus Building Institute

#### **F. DOI MSG Support Team**

Nathan Brannenbergh, Office of Natural Resources Revenue  
Jerry Gidner, Office of Natural Resources Revenue  
Jennifer Goldblatt, Office of Natural Resources Revenue  
Robert Kronebusch, Office of Natural Resources Revenue  
Chris Mentasti, Office of Natural Resources Revenue  
Kim Oliver, Office of Natural Resources Revenue  
Judith Wilson, Office of Natural Resources Revenue

### **VII. Documents Distributed**

- MSG Meeting Agenda ([PDF](#))
- December 2015 MSG Meeting Summary ([PDF](#))
- Report and Reconciliation Workgroup Recommendations ([PDF](#))
- Tax Workgroup Recommendations ([PDF](#))
- Draft State Additions Template ([PDF](#))
- USEITI Updated Fact Sheet ([PDF](#))
- Data Collection Cover Letter to Companies ([PDF](#))
- Reporting Template Guidelines ([PDF](#))
- Reporting Template ([PDF](#))

- IRS Form 8821 ([PDF](#))
- Updated MSG Member Contact List ([PDF](#))
- Decision Matrix ([PDF](#))
- Terms of Reference ([PDF](#))
- EITI Procedure for Mainstreaming ([PDF](#))
- Updated EITI Standard ([PDF](#))
- IA Project Plan ([PDF](#))
- BLM: A Sound Investment for America ([PDF](#))
- O&C Lands Act Overview ([PDF](#))

## **VIII. Certification**

Interested parties are asked to contact USEITI at [useiti@ios.doi.gov](mailto:useiti@ios.doi.gov) or 202-208-0272 with any questions, comments, or concerns regarding the content of this meeting summary.